

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7418
BILL NUMBER: SB 397

NOTE PREPARED: Jan 6, 2003
BILL AMENDED:

SUBJECT: Obscene Digitized Images.

FIRST AUTHOR: Sen. Dembowski
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill adds an obscenity standard to possession of a computer-generated image, a digitized image, or a drawing of a child who appears to be less than 16 years of age.

Effective Date: July 1, 2003.

Explanation of State Expenditures: The bill would enhance the definition of possession of child pornography, a Class D felony, in two ways: (1) by separating knowingly or intentionally possessing a computer-generated image, a digitized image, or a drawing that depicts a sexual conduct by a child less than 16 years of age from the existing definition; and (2) by adding knowingly or intentionally possessing a computer-generated image, a digitized image, or a drawing that depicts sexual conduct by a child who appears to be less than 16 years of age and that is obscene as defined by IC 35-49-2-1.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,540 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior,

or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.

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